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Viewing cable 05LIMA4190, FORMER ANTI-CORRUPTION COURT HEAD BELIEVES

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Reference ID	Created	Released	Classification	Origin
05LIMA4190	2005-09-27 16:18	2011-08-30 01:44	CONFIDENTIAL	Embassy Lima

Appears in these articles:

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This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 LIMA 004190

SIPDIS

E.O. 12958: DECL: 09/19/2015

TAGS: [PGOV](#) [KJUS](#) [PE](#)

SUBJECT: FORMER ANTI-CORRUPTION COURT HEAD BELIEVES
POLITICAL MOTIVES WERE BEHIND HIS TRANSFER

REF: LIMA 1375

Classified By: D/Polcouns Art Muirhead for Reason 1.4 (B, D)

1. (C) SUMMARY. A series of personnel transfers in Lima's courts were announced 9/1, including that of Saul Pena, who had served as Chief Judge of an Anti-Corruption Court Chamber the past four years. Pena told Emboff on 9/16 that pressure from the GOP, linked to his persistent investigation of the use of false signatures to register President Toledo's Peru Possible Party for the 2000 elections, was the reason for his transfer. Pena said that at the time of his removal, he had been on the verge of requiring testimony from "prominent individuals" regarding witness-tampering in this case. Nevertheless, other anti-corruption figures have accepted Pena's transfer as part of the normal rotation and promotion process of the court. END SUMMARY.

2. (U) Judge Maria Zavala, President of the Lima Superior Court, announced a series of changes in the make-up of local tribunals on 9/1. The Special Anti-Corruption Court, which has been instrumental in recovering tens of millions of dollars stolen from the GOP by former Fujimori Intelligence Advisor Vladimiro Montesinos, had two of its long-time members, Chief Judge Saul Pena and Associate Justice Sara Mayta, transferred to the Lima Appellate Court. Besides the replacements for Pena and Mayta, nine judges were named to fill positions on the three new Anti-Corruption Court Chambers, bringing the total number of justices in this specialized group to 18. In her press conference, Judge Zavala stressed the quality and experience of the individuals being brought on to the Anti-Corruption Court, and singled out Pena's replacement, Carolina Lizarraga, who just returned to Peru after completing a Masters program at Yale.

3. (C) Judge Pena told D/Polcouns on 9/16 that he thought his transfer to the Lima appellate court had been engineered to

remove him from jurisdiction over a number of sensitive cases, in particular the investigation of President Toledo's Peru Possible Party having used false signatures to register for the 2000 elections (Ref B). Pena went so far as to claim that all the other transfers had been set up as a "smoke screen" to make his removal seem more routine. He said he was sure that Zavala had been "gotten to" by influential people in Peru Possible who wanted him removed from the false signatures inquiry, especially considering that as an outgrowth of the investigation, he had twice ordered President Toledo's sister Margarita held under house arrest. Pena said as he had delved further into the case, he had received many calls from Congressmen and other politicians urging him to "take it easy."

14. (C) Pena observed that as a result of evidence of witness-tampering in the case (one of the prime accusers of Margarita Toledo, Carmen Burga, was spirited out of the country, but later returned), he had been about to require testimony from several other prominent individuals. When Emboff commented that we had heard allegations that former Interior Minister (and current Peru Possible SecGen) Javier Reategui had coordinated the removal of Burga, Pena confirmed that Reategui had been mentioned in the witness-tampering inquiry, but he did not specify in what fashion.

15. (C) Pena said he also believed it possible that his removal may have been part of a deal between the Toledo Administration and executives of the justice sector to provide more funds to Peru's judiciary. Pena said Walter Vasquez, the current President of the Supreme Court (and chief executive of the entire judiciary), cared little for judicial reform, was concentrating his energies on obtaining more funding for the courts, and would be prepared to cede to pressures from the executive branch if it were to get him more money.

16. (U) Other anti-corruption figures took a less conspiratorial view of the personnel changes in the courts. Former Special Prosecutor Luis Vargas Valdivia said that although the transfer of Pena would inevitably cause a delay in the Peru Possible investigation, his selection for the appellate bench should still be seen as a step up, and a vote of confidence. The head of the local branch of the Judiciary Control Office (OCMA), Sergio Salas, pointed out that some of Pena's decisions in the Peru Possible case had been overruled, leading Salas to conclude that Pena was worn-out, and his removal was "necessary."

17. (C) COMMENT: In the course of the conversation, Pena admitted that there was more to his frustration about the transfer than just the possibility of subversion of the pursuit of justice. Even though his new job in the appellate branch is technically a promotion, his salary will actually be less, and he will have fewer administrative support resources at his command. Pena is also very concerned that he will lose the bodyguards he was given when he came to the Anti-Corruption Court, putting himself and his family at risk. It would be unfortunate if this shake-up led the other anti-corruption judges to conclude that controversial decisions can push them out on a limb without police protection, and they end up not pursuing cases aggressively as a result. END COMMENT.

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